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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES

Report of the Secretary-General

1. In its resolution 1996/30 of 19 April 1996, entitled "Question of enforced disappearances", the Commission on Human Rights reiterated its invitation to States to consider taking effective measures including, if appropriate, legislative measures, to implement the principles of the Declaration on the Protection of All Persons from Enforced Disappearance, and to take action to that end at the national and regional levels and in cooperation with the United Nations. It also encouraged States to provide concrete information on measures taken to give effect to the Declaration, as well as obstacles encountered. In conclusion, the Commission requested the Secretary-General to keep it informed of the steps he takes for the widespread dissemination and promotion of the Declaration and to compile observations, if any, from Governments on the possible measures they have taken, where appropriate, to take the Declaration into account.

2. In conformity with Commission resolution 1996/30, the Department of Public Information (DPI) has distributed Fact Sheet No.6 concerning enforced or involuntary disappearances, published by the Centre for Human Rights, which contains the full text of the Declaration. It is also in the process of publishing a booklet on the Declaration which is to be distributed to,

among others, United Nations peace-keeping offices and specialized agencies. In addition, the DPI Visitors' Services Section makes the Declaration available to the general public and educational institutes upon request. The text of the Declaration is also available on the Internet under the section on General Assembly resolutions. The Department's Development and Human Rights Section also distributes copies of the Declaration upon request.

3. In the field, United Nations Information Centres and Services and United Nations offices are provided with copies of publications containing the Declaration, which they keep in their reference libraries for consultation by interested students, researchers and academics. They also distribute copies to the media and to non-governmental organizations and at special events such as the annual celebration of Human Rights Day.

4. For the remainder of the current biennium, the DPI plans to issue a special backgrounder on the question of enforced disappearances. Every opportunity will be used to promote the elements of the Declaration in briefings and events dealing with the United Nations and human rights, both at Headquarters and through United Nations information centres and services.

5. Human rights field offices have also actively distributed the Declaration to local non-governmental organizations and other interested parties. The Declaration is also part of the training projects on the administration of justice that are being developed in the framework of the human rights advisory services, technical assistance and information programme.

6. In implementation of resolution 1996/30, on 7 June 1996 the Secretary-General sent a note verbale to the Governments of all Member States drawing their attention to the provisions of this resolution and requesting them to provide information on the measures they had taken to take the Declaration into account.

7. At the time of preparation of the present report, replies had been received from the Governments of Croatia, Guyana, the Philippines and the United Kingdom of Great Britain and Northern Ireland.

8. The Government of Croatia stated that the implementation of the Declaration was one of the priorities of the Government, and to that end, a number of legislative and administrative measures had been taken at the national level. However, for the Republic of Croatia the main problem concerning enforced disappearances remained the tracing of persons missing as a result of the armed conflict whose fate was still not known. In order to clarify the fate of those persons, the Government had established the Government Commission on Detained and Missing Persons, which had undertaken numerous measures at both the national and international levels, resulting in the clarification of the fate of a total of 7,496 persons. In addition, the Government was cooperating with the special process on missing persons in the Territory of the Former Yugoslavia, the International Committee of the Red Cross and others in an effort to determine the fate of those persons who remained missing.

9. The Government of Guyana stated that there were no known cases of enforced disappearance in Guyana. The Constitution provided for the

protection of the right to life and liberty, and the Criminal Law Act, Chapter 8:01 provided for the protection of women and children against abduction or kidnapping. The Government further noted that some potential witnesses, especially in drug related cases, were afraid to give evidence because of threats from the accused or persons connected to the accused. In that regard, the Government stressed the need for a witness protection programme. The Government stated that it had taken appropriate action to ensure compliance with the Declaration.

10. The Government of the Philippines stated that under Republic Act No. 7659, entitled "An Act to Impose the Death Penalty on Certain Heinous Crimes", kidnapping and serious illegal detention were listed among the heinous crimes to which the penalty of death was to be applied when the victims were killed or raped or died as a consequence of their detention. Under resolution No. A83-046 of the Philippine Commission on Human Rights, the Commission was authorized to grant financial assistance to qualified victims of human rights violations, in the form of temporary relief, not compensation. Coordination was being strengthened between the Department of Justice and the Philippine Commission on Human Rights on the documentation and identification of cases of disappearance under preliminary investigation, including cases of harassment, ill-treatment and the intimidation of witnesses or relatives of disappeared persons. Coordination was also being strengthened between the Department of Justice and law-enforcement agencies in the prosecution of perpetrators of enforced disappearances, and representatives of the Department of Justice were contributing to congressional hearings on the drafting of bills for the prevention and elimination of enforced disappearance. The National Police Commission had established the Office for Missing Persons, which would handle public assistance activities regarding enforced disappearances. Efforts were under way to promote human rights at the village level through the implementation of the national human rights advocacy programme and the creation of human rights action centres in the villages.

11. The Government of the United Kingdom of Great Britain and Northern Ireland reported that to date it had received no allegations of enforced disappearance, but it would take swift and appropriate action to deal with any instances of enforced disappearance that came to light. The United Kingdom had comprehensive legal safeguards to prevent such an occurrence. To that end, extensive details were provided on the protection provided for individuals in police and prison custody, and of other relevant provisions in the criminal justice system, inter alia, concerning the right of any detainee to have someone informed of his arrest, to speak to a solicitor and to have independent legal advice free of charge. Exercise of those rights might be delayed in connection with a serious arrestable offence, but the delay in notification of arrest must not exceed 36 hours from the time of arrival at the police station or 48 hours in the case of suspects held under the Prevention of Terrorism Act 1989. Prisoners were allowed to make two phone calls, to write to whomsoever they wished and would be interviewed within 24 hours by the prison governor, the prison chaplain and a probation officer. Prisoners have the right to make an application for habeas corpus.